

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**CRIMINAL ACTION NO. 1:06CR58-3**

**JOSH MURRAY,**

**Defendant.**

**ORDER/REPORT AND RECOMMENDATION/OPINION**  
**REGARDING DEFENDANT'S MOTIONS**

Before the Court are Defendant's motions: Brady Motion for any Evidence in the Government's Possession or Control, filed October 9, 2006 [Docket Entry 39]; Motion for Bill of Particulars, filed October 9, 2006 [Docket Entry 40]; Motion for Disclosure of Grand Jury Witness Testimony, filed October 9, 2006 [Docket Entry 41]; Motion for Severance and Motion for Relief from Prejudicial Joinder, filed October 9, 2006 [Docket Entry 42]; Motion in Limine, filed October 9, 2006 [Docket Entry 43]; Motion to Dismiss Count One of the Indictment (Conspiracy Count), filed October 9, 2006 [Docket Entry 44]; Motion to Inspect, filed October 9, 2006 [Docket Entry 47]; and Motion to Dismiss or, in the Alternative, Motion to Suppress, filed October 19, 2006 [Docket Entry 51].

On January 4, 2007, Defendant, Joshua Murray, entered a Plea of Guilty to Count Four of the Indictment before the undersigned United States Magistrate Judge. The undersigned therefore finds Defendant's motions should be denied as mooted by his entry of a guilty plea.

## **ORDER**

The Court therefore **ORDERS** that Defendant's Brady Motion for any Evidence in the Government's Possession or Control, filed October 9, 2006 [Docket Entry 39]; Motion for Bill of Particulars, filed October 9, 2006 [Docket Entry 40]; Motion for Disclosure of Grand Jury Witness Testimony, filed October 9, 2006 [Docket Entry 41]; and Motion to Inspect, filed October 9, 2006 [Docket Entry 47], all be **DENIED, without prejudice, as MOOT.**

## **RECOMMENDATION**

The undersigned United States Magistrate Judge further respectfully **RECOMMENDS** that Defendant's Motion for Severance and Motion for Relief from Prejudicial Joinder, filed October 9, 2006 [Docket Entry 42]; Motion in Limine, filed October 9, 2006 [Docket Entry 43]; Motion to Dismiss Count One of the Indictment (Conspiracy Count), filed October 9, 2006 [Docket Entry 44]; and Motion to Dismiss or, in the Alternative, Motion to Suppress, filed October 19, 2006 [Docket Entry 51] also be **DENIED, without prejudice, as MOOT.**

Any party may, within ten (10) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the Honorable Irene M. Keeley, Chief United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such report and recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to send a copy of this Order/Report and Recommendation to counsel of record.

Respectfully submitted this 8 day of January, 2007.

A handwritten signature in black ink, appearing to read "John S. Kaul". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Kaul".

JOHN S. KAUL  
UNITED STATES MAGISTRATE JUDGE